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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,536	09/08/2003	Piotr Przybylek	PRZYBYLEK-1	9876
25889	7590	09/19/2007	EXAMINER	
WILLIAM COLLARD COLLARD & ROE, P.C. 1077 NORTHERN BOULEVARD ROSLYN, NY 11576			MENDOZA, JUNIOR O	
			ART UNIT	PAPER NUMBER
			2609	
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			09/19/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/657,536	<b>Applicant(s)</b> PRZYBYLEK, PIOTR	
	<b>Examiner</b> Junior O. Mendoza	<b>Art Unit</b> 2609	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 august 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration:
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>09/08/2003</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 1 is objected to because of the following informalities: The word "list" has been misspelled in the last sentence of claim 1, page 4 (line 18). Please note that the very same error is also present in the last sentence of the abstract located in page 1 (line 18). Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claim 1, 2 and 4 are rejected under 35 U.S.C. 102(e) as being anticipated by Knudson et al (Pub. No 2006/0095937). Hereinafter referenced as Knudson.

Regarding claim 1, Knudson discloses a set-top box (34), paragraph [004] also exhibited on figure 1, which reads on "handling device (DK)". A database (36) disclosed on paragraph [0044], used by the set-top box to retain information, which reads on "storage (BOK)"; title information (152) disclosed on paragraph [0055], also shown in figure 3(c), which reads on "identifier". Moreover, Knudson discloses that each channel (service) listing will have a detailed information portion (510) about the listing where a

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channel belongs to, as disclosed on paragraph [0070], which reads on "information about the assignment of the list". Additionally, Knudson discloses other characteristics where one of them is the display of ratings, shown in paragraph [0039], which reads on "displaying viewing ratings".

Regarding claim 2, Knudson discloses everything claimed as applied above (see claim 1), in addition, Knudson discloses that the program guide redisplay the list of categories according to the frequency of selection of it, arranging them from the most frequently viewed to the less frequently used; shown in paragraph [0059] and exhibited on fig 6 (92), which reads on "using the total content of the display lists (after viewing ratings of each element), the content of separate lists is modified".

Regarding claim 4, Knudson discloses everything claimed as applied above (see claim 1), in addition, Knudson discloses that each set-top box may be controlled by one or more remote controls with dedicated set of buttons that may be pressed by the user for directing on-screen navigation, paragraph [0047] which reads on "moving to the next list... modification... is made by means of dedicated buttons of the remote control unit".

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Knudson in view of Webster, James G; Phalen, Patria F; Lichty, Lawrence W. "*Rating Analysis*" (Lawrence Erlbaum Associates, 2000), chapter 2, pages 27-28. Hereinafter, referred as Webster.

Regarding claim 3, Knudson discloses everything claimed as applied above (see claim 1), in addition, Knudson states that a typical characteristic for any program includes providing the rating of such to the users, which is revealed on paragraph [0039], which reads on "viewing ratings of the service". However, Knudson fails to disclose that such rating is produce by doing a percentage ratio; however the examiner maintains that it was well known in the art at the time of the invention to do such calculation, as taught by Webster.

In a similar field of endeavor Webster discloses a Rating Analysis. In addition, Webster discloses ratings being used to describe audience size. Moreover, Webster states that a rating is the percentage of households or people tuned to a particular channel, which is shown by the equation: ratings equals the households tuned to channel divided by the total TV households, shown in figure 2.1, page 28. The method Webster teaches is a technique to calculate the viewing ratings of a service.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Knudson by specifically providing a method to calculate the rating of a channel, as revealed by Webster, for the purpose of providing the users with accurate information about the ratings in a specific channel.

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6. Claim 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knudson in view of Goldman (PG Pub US 2002/0112239). Hereinafter referenced as Goldman.

Regarding claim 5, Knudson discloses everything claimed as applied above (see claim 1), in addition, Knudson discloses that colors, labels or icons may be used to distinguished between different categories, which will be distinctly displayed to attract the user's attention, paragraph [0065]. Nevertheless, Knudson fails to disclose that the selected elements are assigned to graphical symbols. However, the examiner maintains that it was well known in the art to have selected elements assigned to graphical symbols, as shown by Goldman.

In an analogous field of endeavor Goldman discloses: modifying an electronic program guide based on viewer statistics. In addition, Goldman discloses that the user may select a program corresponding to certain color or icon, which is used to indicate the number of spectators who are viewing the corresponding program at that moment, paragraph [0011].

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Knudson by incorporating the rating feature, as taught by Goldman, into the graphical symbol used to differentiate between channels; for the purpose of providing further information to the viewer in order to help them determine what channel to watch.

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7. Claim 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knudson in view of Bennington et al (Pub No US 2004/0168188). Hereinafter referred as Bennington.

Regarding claim 7, Knudson discloses everything claimed as applied above (see claim 1), in addition, Knudson discloses that the user may also add or remove categories from a list at any time; such attribute is shown on paragraph [0017], which reads on "adding the currently viewed service to the list", although Knudson fails to disclose what would happen if the channel was already a part of a list previously save in memory. However, the examiner maintains that it was well known in the art to provide such feature, as taught by Bennington.

In a similar field of endeavor Bennington discloses an electronic television program guide schedule system and method. In addition, Bennington discloses that if a particular channel already appears in the viewer preference list, the user gets reminded that indeed such channel is a member of one of the user's list; on the other hand if it was not previously added to any list, the user gets the choice to add the channel to a preference list, shown in paragraph [0136]; which reads on "...in case the viewed service does not appear on any of the inactive preference lists, the service is added to the selected preference list".

Therefore, it would have been obvious to one of ordinary skill in the art at the same time the invention was made to modify Knudson by adding the feature that checks whether a channel is member of a preference list or not, as taught by Bennington; for

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the purpose of providing a direct link for users to add channels as well as a reminder of whether the channel has been already added.

Regarding claim 8, Knudson discloses everything claimed as applied above (see claim 7), in addition, Knudson discloses that the program guide displays a list of categories, from which the user can actually choose a favorite programming category which would be placed on top of the lists, shown in paragraph [0058]. However, Knudson fails to disclose that there is a default list that can be on top of every other. Nevertheless, the examiner maintains that it was well known in the art to provide a default list, as taught by Bennington.

In a similar field of endeavor Bennington discloses an electronic television program guide schedule system and method. In addition, Bennington discloses that the microcontroller on fig 1 defaults the order of the channels in numeric order; nonetheless the user has what Bennington calls a "Channel preference" submenu where the order of the channels can be modified to whatever the user desires.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Knudson providing a default that can be modified by the user, as taught by Bennington, for the purpose of offering more freedom to the user at the time of organizing their favorite channels.



***Citation of Pertinent Prior Art***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

M. Scott Reichardt (Pub No US 2006/0053448) – customization of channel lists with graphical interaction for the user.

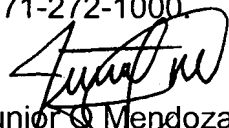
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**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Junior O. Mendoza whose telephone number is 571-270-3573. The examiner can normally be reached on Monday - Thursday 8am - 5pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jefferey Harold can be reached on 571-272-7519. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Junior O. Mendoza  
Examiner  
Art Unit 2609

JM  
JM  
August 13, 2007

  
JEFFEREY F. HAROLD  
SUPERVISORY PATENT EXAMINER